

REFERENCE TITLE: handyman registration.

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2045

Introduced by
Representative McClure, Senator O'Halleran: Representative Pearce

AN ACT

AMENDING TITLE 32, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1108; AMENDING SECTIONS 32-1121 AND 32-1165, ARIZONA REVISED STATUTES; RELATING TO CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 32, chapter 10, article 1, Arizona Revised Statutes,
3 is amended by adding section 32-1108, to read:

4 32-1108. Handyman registration; filing fee; civil penalty

5 A. A PERSON WHO IS EXEMPT FROM LICENSURE PURSUANT TO SECTION 32-1121,
6 SUBSECTION A, PARAGRAPH 4, 9 OR 14 AND WHO IS NOT LICENSED BY THE REGISTRAR
7 PURSUANT TO THIS CHAPTER SHALL REGISTER WITH THE REGISTRAR AS A HANDYMAN IF
8 THE PERSON DOES ANY OF THE FOLLOWING:

9 1. INSTALLS OR ATTACHES FINISHED PRODUCTS, MATERIALS OR ARTICLES OF
10 MERCHANDISE IF THE TOTAL VALUE OF THE SALES CONTRACT OR TRANSACTION INVOLVING
11 THESE ITEMS AND THE COST OF THE INSTALLATION OR ATTACHMENT OF THESE ITEMS TO
12 THE STRUCTURE DO NOT EXCEED ONE THOUSAND DOLLARS, INCLUDING LABOR, MATERIALS
13 AND ALL OTHER ITEMS, BUT EXCLUDING ANY ELECTRICAL FIXTURE OR APPLIANCE THAT
14 WAS DESIGNED BY THE MANUFACTURER, THAT IS UNALTERED, UNCHANGED OR UNMODIFIED
15 BY ANY PERSON, THAT CAN BE PLUGGED INTO A COMMON HOUSEHOLD ELECTRICAL OUTLET
16 USING A TWO PRONGED OR THREE PRONGED ELECTRICAL CONNECTOR AND THAT DOES NOT
17 USE ANY OTHER FORM OF ENERGY, INCLUDING NATURAL GAS, PROPANE OR OTHER
18 PETROLEUM OR GASEOUS FUEL, TO OPERATE OR IS ATTACHED BY A NAIL, SCREW OR
19 OTHER FASTENING DEVICE TO THE FRAME OR FOUNDATION OF ANY RESIDENTIAL
20 STRUCTURE.

21 2. SELLS OR INSTALLS FINISHED PRODUCTS, MATERIALS OR ARTICLES OF
22 MERCHANDISE THAT ARE NOT FABRICATED INTO AND DO NOT BECOME A PERMANENT FIXED
23 PART OF THE STRUCTURE IF THE TOTAL PRICE OF THE FINISHED PRODUCT, MATERIAL OR
24 ARTICLE OF MERCHANDISE DOES NOT EXCEED ONE THOUSAND DOLLARS, INCLUDING LABOR
25 BUT EXCLUDING ANY ELECTRICAL FIXTURE OR APPLIANCE THAT WAS DESIGNED BY THE
26 MANUFACTURER, THAT IS UNALTERED, UNCHANGED OR UNMODIFIED BY ANY PERSON, THAT
27 CAN BE PLUGGED INTO A COMMON HOUSEHOLD ELECTRICAL OUTLET USING A TWO PRONGED
28 OR THREE PRONGED ELECTRICAL CONNECTOR AND THAT DOES NOT USE ANY OTHER FORM OF
29 ENERGY, INCLUDING NATURAL GAS, PROPANE OR OTHER PETROLEUM OR GASEOUS FUEL, TO
30 OPERATE OR IS ATTACHED BY A NAIL, SCREW OR OTHER FASTENING DEVICE TO THE
31 FRAME OR FOUNDATION OF ANY RESIDENTIAL STRUCTURE.

32 3. ENGAGES IN ANY WORK OR OPERATION ON ONE UNDERTAKING OR PROJECT BY
33 ONE OR MORE CONTRACTS, FOR WHICH THE AGGREGATE CONTRACT PRICE, INCLUDING
34 LABOR, MATERIALS AND ALL OTHER ITEMS, BUT EXCLUDING ANY ELECTRICAL FIXTURE OR
35 APPLIANCE THAT WAS DESIGNED BY THE MANUFACTURER, THAT IS UNALTERED, UNCHANGED
36 OR UNMODIFIED BY ANY PERSON, THAT CAN BE PLUGGED INTO A COMMON HOUSEHOLD
37 ELECTRICAL OUTLET USING A TWO PRONGED OR THREE PRONGED ELECTRICAL CONNECTOR
38 AND THAT DOES NOT USE ANY OTHER FORM OF ENERGY, INCLUDING NATURAL GAS,
39 PROPANE OR OTHER PETROLEUM OR GASEOUS FUEL, TO OPERATE OR IS ATTACHED BY A
40 NAIL, SCREW OR OTHER FASTENING DEVICE TO THE FRAME OR FOUNDATION OF ANY
41 RESIDENTIAL STRUCTURE, DOES NOT EXCEED ONE THOUSAND DOLLARS.

42 4. REMODELS, REPAIRS OR IMPROVES AN EXISTING STRUCTURE OR APPURTENANCE
43 AND THE COST FOR LABOR AND MATERIALS PER PROJECT PER DWELLING OR APPURTENANCE
44 DOES NOT EXCEED ONE THOUSAND DOLLARS.

1 B. IF A PERSON IS REQUIRED TO BE REGISTERED PURSUANT TO THIS SECTION,
2 THE PERSON SHALL FILE WITH THE REGISTRAR ALL OF THE FOLLOWING:

- 3 1. THE PERSON'S NAME, ADDRESS AND TELEPHONE NUMBER.
4 2. PROOF THAT THE PERSON HAS A SURETY BOND.
5 3. A STATEMENT THAT THE PERSON IS LAWFULLY PRESENT IN THE UNITED
6 STATES UNDER FEDERAL LAW.
7 4. A FILING FEE OF FORTY-FIVE DOLLARS.

8 C. EVERY PERSON REGISTERED PURSUANT TO THIS SECTION SHALL NOTIFY THE
9 REGISTRAR IN WRITING OF ANY CHANGE IN RESIDENCE OR OFFICE ADDRESS AND
10 TELEPHONE NUMBER WITHIN THIRTY DAYS AFTER THAT CHANGE. THE REGISTRAR SHALL
11 IMPOSE A CIVIL PENALTY OF NO MORE THAN ONE THOUSAND DOLLARS PER VIOLATION ON
12 A PERSON WHO DOES NOT DO ANY OF THE FOLLOWING:

- 13 1. REGISTER AS PRESCRIBED BY THIS SECTION.
14 2. NOTIFY THE REGISTRAR OF A CHANGE IN ADDRESS OR TELEPHONE NUMBER AS
15 REQUIRED BY THIS SUBSECTION.
16 3. MAINTAIN A SURETY BOND.

17 Sec. 2. Section 32-1121, Arizona Revised Statutes, is amended to read:
18 32-1121. Persons not required to be licensed; penalties

19 A. This chapter shall not be construed to apply to:

20 1. An authorized representative of the United States government, this
21 state or any county, incorporated city or town, reclamation district,
22 irrigation district or other municipality or political subdivision of this
23 state.

24 2. Trustees of an express trust that is not formed for the purpose of
25 conducting business as a contractor or officers of a court, if they are
26 acting within the terms of their trust or office.

27 3. Public utilities operating under regulation of the corporation
28 commission or construction, repair or operation incidental to discovering or
29 producing petroleum or gas, or the drilling, testing, abandoning or other
30 operation of a petroleum or gas well, if performed by an owner or lessee.

31 4. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, any materialman,
32 manufacturer or retailer furnishing finished products, materials or articles
33 of merchandise who does not install or attach such items or installs or
34 attaches such items if the total value of the sales contract or transaction
35 involving such items and the cost of the installation or attachment of such
36 items to a structure does not exceed one thousand dollars, including labor,
37 materials and all other items, but excluding any electrical fixture or
38 appliance that was designed by the manufacturer, that is unaltered, unchanged
39 or unmodified by any person, that can be plugged into a common household
40 electrical outlet utilizing a two pronged or three pronged electrical
41 connector and that does not use any other form of energy, including natural
42 gas, propane or other petroleum or gaseous fuel, to operate or is attached by
43 a nail, screw or other fastening device to the frame or foundation of any
44 residential structure. The materialman, manufacturer or retailer shall
45 inform the purchaser that the installation may also be performed by a

1 licensed contractor whose name and address the purchaser may request. A
2 PERSON WHO IS EXEMPT FROM LICENSURE PURSUANT TO THIS PARAGRAPH SHALL REGISTER
3 WITH THE REGISTRAR IF REQUIRED PURSUANT TO SECTION 32-1108.

4 5. Owners of property who improve such property or who build or
5 improve structures or appurtenances on such property and who do the work
6 themselves, with their own employees or with duly licensed contractors, if
7 the structure, group of structures or appurtenances, including the
8 improvements thereto, are intended for occupancy solely by the owner and are
9 not intended for occupancy by members of the public as the owner's employees
10 or business visitors and the structures or appurtenances are not intended for
11 sale or for rent. In all actions brought under this chapter, proof of the
12 sale or rent or the offering for sale or rent of any such structure by the
13 owner-builder within one year after completion or issuance of a certificate
14 of occupancy is prima facie evidence that such project was undertaken for the
15 purpose of sale or rent. For the purposes of this paragraph, "sale" or
16 "rent" includes any arrangement by which the owner receives compensation in
17 money, provisions, chattels or labor from the occupancy or the transfer of
18 the property or the structures on the property.

19 6. Owners of property who are acting as developers and who build
20 structures or appurtenances to structures on their property for the purpose
21 of sale or rent and who contract for such a project with a general contractor
22 licensed pursuant to this chapter and owners of property who are acting as
23 developers, who improve structures or appurtenances to structures on their
24 property for the purpose of sale or rent and who contract for such a project
25 with a general contractor or specialty contractors licensed pursuant to this
26 chapter. To qualify for the exemption under this paragraph, the licensed
27 contractors' names and license numbers shall be included in all sales
28 documents.

29 7. Architects or engineers who are engaging in their professional
30 practice as defined in chapter 1 of this title and who hire or offer to hire
31 the services of a contractor for preconstruction activities relating to
32 investigation and discovery including:

- 33 (a) Subsurface utility location and designation services.
- 34 (b) Potholing.
- 35 (c) Drilling for any of the following:
 - 36 (i) Soil samples.
 - 37 (ii) Rock samples.
 - 38 (iii) Pavement samples.
- 39 (d) Locating existing features of a building or structure including
40 existing electrical, mechanical, plumbing and structural members.

41 8. A person licensed, certified or registered pursuant to chapter 22
42 of this title or a person working under the direct supervision of a person
43 certified or qualified pursuant to chapter 22 of this title to the extent the
44 person is engaged in structural pest control.

1 9. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, the sale or
2 installation of finished products, materials or articles of merchandise which
3 are not fabricated into and do not become a permanent fixed part of the
4 structure. This exemption does not apply if a local building permit is
5 required, if the total price of the finished product, material or article of
6 merchandise, including labor but excluding any electrical fixture or
7 appliance that was designed by the manufacturer, that is unaltered, unchanged
8 or unmodified by any person, that can be plugged into a common household
9 electrical outlet utilizing a two pronged or three pronged electrical
10 connector and that does not use any other form of energy, including natural
11 gas, propane or other petroleum or gaseous fuel, to operate or is attached by
12 a nail, screw or other fastening device to the frame or foundation of any
13 residential structure, is more than one thousand dollars or if the removal of
14 the finished product, material or article of merchandise causes damage to the
15 structure or renders the structure unfit for its intended use. A PERSON WHO
16 IS EXEMPT FROM LICENSURE PURSUANT TO THIS PARAGRAPH SHALL REGISTER WITH THE
17 REGISTRAR IF REQUIRED PURSUANT TO SECTION 32-1108.

18 10. Employees of the owners of condominiums, townhouses, cooperative
19 units or apartment complexes of four units or less or the owners' management
20 agent or employees of the management agent repairing or maintaining
21 structures owned by them.

22 11. Any person who engages in the activities regulated by this chapter,
23 as an employee of an exempt property owner or as an employee with wages as
24 the person's sole compensation.

25 12. A surety company or companies which are authorized to transact
26 business in this state and which undertake to complete a contract on which
27 they issued a performance or completion bond, provided all construction work
28 is performed by duly licensed contractors.

29 13. Insurance companies which are authorized to transact business in
30 this state and which undertake to perform repairs resulting from casualty
31 losses pursuant to the provisions of a policy, provided all construction work
32 is performed by duly licensed contractors.

33 14. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, any person other
34 than a licensed contractor engaging in any work or operation on one
35 undertaking or project by one or more contracts, for which the aggregate
36 contract price, including labor, materials and all other items, but excluding
37 any electrical fixture or appliance that was designed by the manufacturer,
38 that is unaltered, unchanged or unmodified by any person, that can be plugged
39 into a common household electrical outlet utilizing a two pronged or three
40 pronged electrical connector and that does not use any other form of energy,
41 including natural gas, propane or other petroleum or gaseous fuel, to operate
42 or is attached by a nail, screw or other fastening device to the frame or
43 foundation of any residential structure, ~~is less than~~ DOES NOT EXCEED one
44 thousand dollars. The work or operations which are exempt under this
45 paragraph shall be of a casual or minor nature. A PERSON WHO IS EXEMPT FROM

LICENSURE PURSUANT TO THIS PARAGRAPH SHALL REGISTER WITH THE REGISTRAR IF REQUIRED PURSUANT TO SECTION 32-1108. This exemption does not apply:

(a) In any case in which the performance of the work requires a local building permit.

(b) In any case in which the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts ~~less than~~ THAT DO NOT EXCEED one thousand dollars, excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a two pronged or three pronged electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, for the purpose of evasion of this chapter or otherwise.

(c) To a person who utilizes any form of advertising to the public in which the person's unlicensed status is not disclosed by including the words "not a licensed contractor" in the advertisement.

15. A person who is licensed, certified or registered pursuant to title 41, chapter 16 and who is not otherwise required to be licensed under this chapter or an employee of such person.

16. A person who functions as a gardener by performing lawn, garden, shrub and tree maintenance.

B. A person who is licensed to perform work in a particular trade pursuant to this chapter shall not be required to obtain and maintain a separate license for mechanical or structural service work performed within the scope of such trade by such person.

C. Any person who does not have an exemption from licensure pursuant to subsection A, paragraph 14, subdivision (c) of this section is subject to prosecution for a violation of section 44-1522. The attorney general may investigate the act or practice and take appropriate action pursuant to title 44, chapter 10, article 7.

D. ALL ELECTRICAL, PLUMBING, AIR CONDITIONING, HEATING, BOILER, ROOFING AND FIRE SAFETY WORK SHALL BE PERFORMED BY A CONTRACTOR APPROPRIATELY LICENSED PURSUANT TO THIS CHAPTER AND SHALL NOT BE DONE BY A PERSON WHO IS EXEMPT FROM LICENSURE PURSUANT TO THIS SECTION.

Sec. 3. Section 32-1165, Arizona Revised Statutes, is amended to read: 32-1165. Advertising; violation; classification

Except as authorized by section 32-1121, subsection A, paragraph 14, subdivision (c), it is a class 1 misdemeanor for any person to advertise that ~~he~~ THE PERSON is able to perform any service or contract for compensation subject to regulation by the registrar under the terms of this chapter unless a license OR REGISTRATION under the terms of this chapter is first obtained

1 regardless of whether ~~his~~ THE PERSON'S operations as a contractor OR HANDYMAN
2 are otherwise exempt.

3 Sec. 4. Requirements for enactment; two-thirds vote

4 Pursuant to article IX, section 22, Constitution of Arizona, this act
5 is effective only on the affirmative vote of at least two-thirds of the
6 members of each house of the legislature and is effective immediately on the
7 signature of the governor or, if the governor vetoes this act, on the
8 subsequent affirmative vote of at least three-fourths of the members of each
9 house of the legislature.